

Introduced by Senator Ackerman

February 24, 2006

An act to amend Sections 17072, 17131.4, 17131.5, 17215.1, 17215.4, and 19184 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1787, as introduced, Ackerman. Personal income taxes: deductions: health savings accounts.

The Personal Income Tax Law authorizes various deductions in computing income that is subject to tax under that law.

This bill would, for taxable years beginning on or after January 1, 2004, allow a deduction in connection with health savings accounts in conformity with recently enacted federal law, providing that the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by or on behalf of an eligible individual, as defined, to a health savings account of that individual, as provided. This bill would also provide related conformity to that federal law with respect to treatment of the account as a tax-exempt trust and the allowance of rollovers from Archer medical savings accounts to a health savings account.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17072 of the Revenue and Taxation
- 2 Code is amended to read:

17072. (a) Section 62 of the Internal Revenue Code, relating to adjusted gross income defined, shall apply, except as otherwise provided.

(b) Section 62(a)(2)(D) of the Internal Revenue Code, relating to certain expenses of elementary and secondary school teachers, shall not apply.

(c) (1) *Section 62(a)(19) of the Internal Revenue Code, as added by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), shall apply, except as otherwise provided.*

(2) *The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2004.*

SEC. 2. Section 17131.4 of the Revenue and Taxation Code is amended to read:

17131.4. (a) Section 106(d) of the Internal Revenue Code, as added by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), relating to contributions to health savings accounts, shall ~~not~~ apply, *except as otherwise provided.*

(b) *The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2004.*

SEC. 3. Section 17131.5 of the Revenue and Taxation Code is amended to read:

17131.5. (a) Section 125(d)(2)(D) of the Internal Revenue Code, as added by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), relating to the exception for health savings accounts, shall ~~not~~ apply, *except as otherwise provided.*

(b) *The amendments to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2004.*

SEC. 4. Section 17215.1 of the Revenue and Taxation Code is amended to read:

17215.1. (a) Section 220(f)(5) of the Internal Revenue Code, as amended by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), relating to rollover contributions, shall ~~not~~ apply, *except as otherwise provided.*

1 **(b)** *The amendments to this section by the act adding this*
2 *subdivision shall apply to taxable years beginning on or after*
3 *January 1, 2004.*

4 SEC. 5. Section 17215.4 of the Revenue and Taxation Code
5 is amended to read:

6 17215.4. **(a)** Section 223 of the Internal Revenue Code, *as*
7 *added by Section 1201 of the Medicare Prescription Drug,*
8 *Improvement, and Modernization Act of 2003 (Public Law*
9 *108-173), relating to health savings accounts, shall not apply,*
10 *except as otherwise provided.*

11 **(b)** *The amendments to this section by the act adding this*
12 *subdivision shall apply to taxable years beginning on or after*
13 *January 1, 2004.*

14 SEC. 6. Section 19184 of the Revenue and Taxation Code is
15 amended to read:

16 19184. **(a)** A penalty of fifty dollars (\$50) shall be imposed
17 for each failure, unless it is shown that the failure is due to
18 reasonable cause, by any person required to file who fails to file
19 a report at the time and in the manner required by any of the
20 following provisions:

21 **(1)** Subdivision (c) of Section 17507, relating to individual
22 retirement accounts.

23 **(2)** Section 220(h) of the Internal Revenue Code, relating to
24 medical savings accounts for taxable years beginning on or after
25 January 1, 1997.

26 **(3)** Subdivision (b) of Section 17140.3 or subdivision (b) of
27 Section 23711 relating to qualified tuition programs.

28 **(4)** Subdivision (e) of Section 23712, relating to Coverdell
29 education savings accounts.

30 **(5)** *Section 223(h) of the Internal Revenue Code, relating to*
31 *health savings accounts, for taxable years beginning on or after*
32 *January 1, 2006.*

33 **(b)** **(1)** Any individual who:

34 **(A)** Is required to furnish information under Section 17508 as
35 to the amount designated nondeductible contributions made for
36 any taxable year, and

37 **(B)** Overstates the amount of those contributions made for that
38 taxable year, shall pay a penalty of one hundred dollars (\$100)
39 for each overstatement unless it is shown that the overstatement
40 is due to reasonable cause.

(2) Any individual who fails to file a form required to be filed by the Franchise Tax Board under Section 17508 shall pay a penalty of fifty dollars (\$50) for each failure unless it is shown that the failure is due to reasonable cause.

(c) Article 3 (commencing with Section 19031) of this chapter (relating to deficiency assessments) shall not apply in respect of the assessment or collection of any penalty imposed under this section.

SEC. 7. (a) The amendments made by this act to Sections 17072, 17131.4, 17131.5, 17215.1, and 17215.4 of the Revenue and Taxation Code incorporate, by reference, the provisions of Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), which added Section 223 of the Internal Revenue Code to Part VII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code and amended Sections 62, 106, 125, and 220 of the Internal Revenue Code, and shall apply retroactively to taxable years beginning on or after January 1, 2004.

(b) The Legislature finds and declares that this act fulfills a statewide public purpose because of the following:

The State of California has not yet conformed its state income tax law to the provisions of Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173). As the result, the taxpayers who have converted their Archer Medical Savings Accounts into Health Savings Accounts pursuant to Sections 220 and 223 of the Internal Revenue Code may be subject to tax and penalties under state, but not federal, income tax laws. This act provides necessary relief from the tax and penalties to the taxpayers who have converted their Archer Medical Savings Accounts into Health Savings Accounts in taxable years beginning on or after January 1, 2004.

(c) If, by the operation of any law or rule of law, including res judicata, a refund or credit of any overpayment of tax resulting from the retroactive application of the amendments made to Sections 17072, 17131.4, 17131.5, 17215.1, and 17215.4 of the Revenue and Taxation Code by this act is prevented at any time before the close of the two-year period beginning on the effective date of this act, that refund or credit may nonetheless be made or

- 1 allowed, provided that the claim for refund or credit is filed
- 2 before the close of that period.
- 3 SEC. 8. This act provides for a tax levy within the meaning of
- 4 Article IV of the Constitution and shall go into immediate effect.